

**THEODORE CAMPBELL**

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Attorney for Petitioner - Appellant

MICHAEL G. PALKO  
JAMIE PALKO,

Plaintiffs

vs.

EDISON TOWNSHIP DEPT. OF  
PUBLIC SAFETY (DIVISION OF  
POLICE), THOMAS BRYAN,  
BRIAN COLLIER, FRANK TODD,  
MATT FREEMAN, MARK  
ANDERKO, GREGORY FORMICA,  
PAT KELLY, (JOHN DOES 1-10)

Defendants

SUPERIOR COURT OF NEW JERSEY  
MIDDLESEX COUNTY

LAW DIVISION

DOCKET NO:

**CIVIL ACTION**

COMPLAINT AND JURY DEMAND

Plaintiffs, Michael G. Palko and Jamie Palko, residing at [REDACTED]  
[REDACTED] Edison Township, County of Middlesex, State of New Jersey  
complaining of the above - named defendants say:

**FIRST COUNT**  
(Parties)

1. Plaintiff Michael G. Palko hereinafter (Plaintiff or Capt. Palko) was appointed and sworn in as an Edison Police Officer on December 7, 1977. The Plaintiff rose through the ranks on December 2005 was appointed Captain and Commander of the Patrol Division.

2. Jamie Palko is and has been Plaintiff's wife for 29 years.

3. The Defendant, Edison Township is a municipal corporation organized and existing under the laws of the State of New Jersey, located at 100 Municipal Boulevard, Edison, New Jersey.

4. At all times hereinafter mentioned the Edison Department of Public Safety Division of Police (hereinafter "Police Department") is a department within Edison Township.

5. At all times hereinafter mentioned Thomas Bryan (hereinafter Chief Bryan) is the Deputy Chief and subsequent thereto the Chief of the Police Department and acted as agent/employee of Edison Township.

6. At all times hereinafter mentioned Mark Anderko (hereinafter Anderko) is a ranking officer as a Lieutenant and Captain within the Police Department and acted as agent/employee of Edison Township.

7. At all times hereinafter mentioned Brian Collier (hereinafter "Director Collier" or "Collier") is the Director of the Police Department and acted as agent/employee of Edison Township.

8. At all times hereinafter mentioned Frank Todd (hereinafter "Todd") is a ranking officer as Sergeant within the Police Department and acted as agent/employee of Edison Township.

9. At all times hereinafter mentioned Pat Kelly (hereinafter "Kelly") is a ranking officer as a Lieutenant and Captain within the Police Department and acted as agent/employee of Edison Township.

10. At all times hereinafter mentioned Anthony Marcantuono is a ranking officer as a Lieutenant within the Police Department and acted as an agent/employee of Edison Township.

11. At all times hereinafter mentioned Gregory Formica is a ranking officer as a Lieutenant within the Police Department and acted as agent/employee of Edison Township.

12. At all times hereinafter mentioned Matt Freeman is a Captain within the Police Department and acted as agent/employee of Edison Township.

#### BACKGROUND INFORMATION

13. During Plaintiff's tenure as Captain of the Patrol Division between the months of January 2006 and May 2008, Plaintiff ordered an investigation of then Sergeant Alexander Glinsky's performance as a Squad D Supervisor and Patrolman Joseph Kenney as assigned patrolman on Squad D.

14. Plaintiff ordered the investigation because Squad D began to experience some internal problems shortly after Sgt. Glinsky was transferred to Squad D during the month of January 2007. Some of the superior officers on the squad stated the squad was experiencing problems because Sgt. Glinsky was targeting Patrolman Kenney with undue criticism and Glinsky general manner of dealing with the squad was disruptive.

15. Plaintiff ordered an investigation and as a result of the investigation Plaintiff concluded that Sgt. Glinsky should be transferred from Squad D. Lieutenant Kelly, now Captain Kelly, conducted the investigation, reluctantly. In fact, Plaintiff had to order Kelly to make a decision with regard to the investigation and its findings.

16. Plaintiff's decision to transfer Sgt. Glinsky was common knowledge among the officers in the Police Department and was approved by Chief Mieczkowski and Deputy Chief Vaticano. Some of the officers disagreed with the Plaintiff's decision to transfer the superior officer as oppose to the patrolman.

17. On April 1, 2008, Thomas Bryan was appointed Deputy Chief by Mayor Choi with all of the policy making and operational authority as the Chief of the Police Department. There was no appointed Chief at the time. Bryan was later appointed Chief of Police before the end of Mayor Choi's term.

18. On April 2, 2008, Bryan transferred Palko from the position of Captain of Patrol with supervising authority over all patrol officers to Captain of Communication, where he supervised one sergeant and twenty (20) civilians. The Plaintiff did not receive prior notice and learned of the transfer from an envelope that was left on his desk during the lunch hour.

19. During the month of June 2008, Sgt. Glinsky was reassigned to Squad D. On the first day of Glinsky's reassignment, July 3, 2008, Glinsky walked away from a deadly accident scene leaving Officer Joe Kenney alone trying to retrieve the severely injured victims from the wreckage. Glinsky stated afterward according to Kenney, "I will not risk my life for dirty filthy Indians."

20. Kenney later filed a formal departmental complaint against Glinsky for dereliction of duty and creation of a hostile work environment. Kenney alleged in a civil suit filed in August 2009 against the Edison Township and

Chief Bryan and others that Chief Bryan warned him not to file a departmental complaint that "it would not be in his best interest to do so."

21. Kenney filed the departmental complaint on or about July 6, 2008. Shortly thereafter Chief Bryan ordered Kenney out on administrative leave. Bryan also ordered an immediate IA investigation. Several months later (October 2008) Bryan filed departmental charges against Kenney for insubordination. No charges were filed against Glinsky. The IA investigation and report did not refer to Sgt. Glinsky's prior treatment of Patrolman Kenney as his supervisor.

22. Chief Bryan would later state during depositions in the Kenney civil suit that when he ordered the IA investigation and filed charges against Kenney he was not aware of the Glinsky/Kenney harassment matter and the previous assignment of Glinsky away from Kenney by Capt. Palko, plaintiff herein.

23. Capt. Palko provided testimony and affidavits during Kenney's civil suit that he provided Bryan with the Glinsky/Kenney investigation file shortly after the July 2008 accident at the Chief's request, which was contrary to Bryan's statements under oath. Palko provided truthful testimony at Joe Kenney's whistle-blower trial in September 2011.

24. During the year 2008, Keith Hahn, PBA union representative, complained to Bryan, Collier and others in the the Command Staff that the older more experienced Captains such as Plaintiff were being transferred to positions of less authority while younger officers were promoted to positions of Captains and given positions of significant authority. Hahn complained this was discriminatory. Hahn filed a whistle-blower complaint thereafter alleging retaliation.

25. Additionally, Mayor Choi announced to the Township union representatives his desire to eliminate the older employees at a meeting during the summer of 2008.

26. On September 22, 2008, Bryan appointed Plaintiff to a newly created position as Captain of School Security, where he had no supervisory authority over any of the officers. Two officers were assigned to the schools but they reported to the Captain of Detectives. It is noteworthy that Captains Anderko and Freeman had extensive previous experience as school resource officers and seemed better suited for the position.

27. Plaintiff was told by Director Collier while Plaintiff waited for Chief Bryan in Collier's office to provide the Chief with the Glinsky/Kenney harassment file, that some might view his siding with Patrolman Kenney as mutinous. Collier also stated that Plaintiff made a bad career move by his actions.

28. Plaintiff was called to the Chief's office prior to Joe Kenney's departmental hearing in June of 2009 and was assigned as security for the hearing. Bryan stated to Plaintiff, at that time, you had problems with Kenney in the past, remember? Plaintiff responded he did not have problems with Kenney. Chief Bryan threatened to subpoena him for the hearing. Plaintiff was consistent in his response. The Chief stated "I will remember that." Plaintiff considered that to be a threat.

29. On June 17, 2009, Plaintiff was transferred again and appointed to the position of Road Captain of field Operations. In this position Plaintiff reported to the Captain of Patrol.

30. On December 1, 2009, Plaintiff was transferred again and reassigned to the position as Captain of Patrol.

31. Several officers promoted and appointed Captains during Mayor Choi's tenure were demoted by incoming Mayor Ricigliano in January 2011 due to economy and the 2006 State Department of Community Affairs (DCA) Report which recommended the need for only four (4) Captains, a Chief and a Deputy Chief as a sufficient command staff for the Police Department of Edison.

32. After Bryan's promotion to Deputy Chief, in 2008, Plaintiff was routinely excluded from command level meetings held by Bryan and conducted with Mark Anderko (Captain of Administration), Matt Freeman (Captain of Professional Standards), Pat Kelly (Captain of Detectives), Gregory Formica (Lt in charge of Internal Affairs) and Joe Shannon, also a Lieutenant in Administration.

33. It is noteworthy that most if not all of the positions were rolled back and/or demoted by Mayor Ricigliano as referenced in paragraph 31 above.

34. Chief Bryan continually berated Plaintiff after reassigning him to Captain of Patrol Division in December 2009 and throughout the year 2010. The Chief would berate the Plaintiff for the lack of productivity in the patrol

Division because officer's car stops decreased significantly, in large part due to FBI investigations of the Police Department as well as numerous internal investigations. Plaintiff asked the Chief to attend Patrol Bureau meetings to assure the officers they had his support for proper police work. The Chief refused and simply replied "you figure it out."

35. One example of the problem involved Officer Joe Kenney's apprehension of a robbery suspect who nearly killed the gas station attendant yet Kenney was being investigated by the FBI. Plaintiff explained to the Chief how examples like that have caused a chilling effect on morale and only he (Chief Bryan) had knowledge of the investigations

36. Plaintiff learned the Chief wrote a report to the FBI agent in charge that the "officers would start working if the FBI got off their backs." Plaintiff also learned the Agent in Charge allegedly responded "Palko is interfering with a federal investigation."

37. In summary, Chief Bryan refused to support Capt. Palko in his role as Captain of the Patrol Division throughout the year 2010.

38. When Plaintiff was Patrol Commander, Internal Affairs, administered by Capt. Freeman and Lt. Formica, routinely forwarded complaints to Plaintiff's office to investigate. One matter involved Lt. Bruce Polkowitz. Officer Polkowitz was a supporter of Officer Joe Kenney. Plaintiff was informed by Capt. Freeman that the investigation was complete and there was no need to reinvestigate. All Plaintiff had to do was hand down the disposition. Information came to Plaintiff about a witness, who was not in the report; upon interviewing the witness, Plaintiff exonerated Lt. Polkowitz. Plaintiff believes this valuable information was intentionally left out of the report, to damage Plaintiff and Polkowitz.

39. On or about March 2011, Plaintiff was summoned to Chief Bryan's office to discuss a grievance Plaintiff was about to file. Upon entering, the Chief asked the Plaintiff, how is your son doing, referring to Officer Joseph Palko. The Plaintiff responded, "fine." As the discussion progressed, Plaintiff stated, "I am no threat to you, Chief. What is the problem here?" The Chief responded, "I am aware that you gave an affidavit to Joe Kenney's attorney. Why do you continue to involve yourself in that matter?" The Plaintiff perceived the comment about his son and the Kenney affidavit as an attempt to intimidate him. The Plaintiff responded, "because it is the truth."

40. On January 19, 2011, Mayor Ricigliano demoted Captains Kelly, Anderko and Freeman due to economy as noted in paragraph 31 above.

41. On January 20, 2011, the Plaintiff was transferred and assigned as Captain of Communications and Records. At or about the same time Plaintiff son Officer Joseph Palko was questioned by Internal Affairs as a suspect in alleged postings on NJ.com that were supposedly threatening or alarming. The Plaintiff was also questioned by the Chief, Formica and Freeman about the postings. The postings allegedly emanated from Plaintiff's home computer; however, Plaintiff's computer did not at the time have a restricted password and was accessible by anyone outside of the home within a certain radius. Sgt. Todd who is reportedly one of the alleged targets of the N.J.com postings was a frequent visitor at Plaintiff's home and used the same computer with unfettered access to the email address that generated the postings. Additionally, Sgt. Todd in 2008 cautioned Plaintiff not to support Kenney in his whistle-blower complaint, that his men (Todd's) from Vice were on the scene and that Kenney is lying about what occurred with Glinsky at the accident scene and his men will step-up and tell the truth.

42. During the Spring of 2011, the Chief was suspended by the Mayor for several weeks. During that suspension, a list of names of current police officers associated with Joe Kenney's whistle-blower civil action was found in Internal Affairs. The association was demonstrated by a flow chart or hit list with Joe Kenney at the center. The Plaintiff's name was on that list. IA was at that time administered by Freeman and Formica. It appeared to be a target list for retaliation. Lt. Formica, who investigated the N.J.com postings referenced in paragraph 41 above, has stated to some fellow officers, "that everything I did in Internal Affairs I was ordered to do so by the Chief, and now the Chief wants deniability." Lt. Formica also acknowledged to a fellow officer that he did not put a disposition on the N.J.com investigation surrounding Capt. Palko; the disposition was done by the Chief.

43. During the same time a list of donors to Mayor Ricigliano's campaign and election was found in the Chief's desk. The Chief was a supporter of Mayor Choi's campaign, who lost the Democratic nomination to the current Mayor. Plaintiff's name was on that list as well.

44. The Plaintiff went out on disability leave on or about June of 2011. The Plaintiff remained on disability leave for one year. Plaintiff's doctors related this disability and hypertension to work related stress. While on

disability leave Plaintiff learned of the lists referenced above which added to his anxiety.

45. During Plaintiff's disability leave, Capt. Kelly and Sgt. Todd stated to other officers on several occasions, friendly to Plaintiff that "if Palko does not resign, but instead return to work, the Chief will file departmental disciplinary charges against him." Additionally, Sgt. Todd stated to Lt Speilman that Palko is "going to jail." On Plaintiff's first day back from disability, Bryan filed the charges which include the possibility of a demotion, penalties and suspension.

46. During Plaintiff's disability leave, Chief Bryan requested of the Mayor's Administration that Plaintiff be terminated by a forced early pension. Bryan made the request to Bill Stevens, Management Specialist to Mayor Ricigliano. Plaintiff learned of Bryan's request during a meeting with the Mayor. Said meeting was convened when a number of officers who testified at the Kenney trial complained that Chief Bryan allegedly accused them of lying during their testimony.

47. Chief Bryan has also questioned Plaintiff about his age while stating that he (Chief) intends to remain in the position as Chief for another 15 years. Capt. Kelly has also stated he intends to remain for many years because he has some officers he would like to expletive.

48. Since Bryan assumed Operational Control of the Police Department in 2008, the Plaintiff has been under constant stress related to his work environment as described above.

49. It is noteworthy that Plaintiff's problems with the Chief and some fellow colleagues began when he chose to provide truthful testimony for the Joe Kenney whistle-blower civil action, and refused to provide false testimony at Kenney's departmental hearing.

50. Plaintiff's work condition has over time become hostile and has caused injury to Plaintiff. The numerous transfers, the threats and now departmental charges all contributed to Plaintiff's injury and are retaliatory.

51. The facts also suggest efforts to force Plaintiff's retirement due to his age and political affiliation with Mayor Ricigliano.



52. As a result of the actions of the named Defendants, Plaintiff has suffered emotional, physical and psychological harm, interference with employment and continued interference with employment.

53. The conduct of the Defendants violated Plaintiff's rights under the Conscientious Employee Protection Act (CEPA), N.J.S.A. 34:19-1 et seq

WHEREFORE, Plaintiff(s) demands judgment on this count against any or all of the Defendants for compensatory damages, including any lost wages, if applicable, benefits, punitive damages, together with interest, attorney fees, cost of suit and any other further relief the Court deems just and equitable.

SECOND COUNT  
(Violation of LAD)

1. Plaintiffs repeat the allegations of Count One of the complaint and incorporate same herein by reference.

2. The conduct of the Defendants violated Plaintiff(s)' rights under the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq.

WHEREFORE, Plaintiff(s) demands judgment on this count against any or all of the Defendants for compensatory damages, including any lost wages, if applicable, benefits, punitive damages, together with interest, attorney fees, cost of suit and any other further relief the Court deems just and equitable.

THIRD COUNT  
(Intentional Infliction of Emotional Distress)

1. Plaintiffs repeat the allegations of the previous counts of the complaint and incorporate same herein by reference.

2. The conduct of the Defendants constitutes the intentional infliction of emotional distress against the Plaintiff, Michael g. Palko.

WHEREFORE, Plaintiff(s) demands judgment for compensatory damages and punitive damages on this count of the complaint, against any and all Defendants, together with interest, attorney fees and cost of suit.

FOURTH COUNT  
(PER QUOD Claim)

1. Plaintiffs repeat the allegations of the third count of the complaint and incorporate same herein by reference.

2. At all relevant times herein Jamie Palko was the wife of Plaintiff Michael Palko.

3. As a proximate result of the above described conduct and actions of the Defendants, Jamie Palko has suffered loss of society and consortium of Michael Palko, as well as personal emotional anxiety.

WHEREFORE, Plaintiff(s) demands judgment on this count against all of the Defendants for compensatory damages, punitive damages, attorney fees and costs.

FIFTH COUNT  
(Breach of New Jersey Constitution)

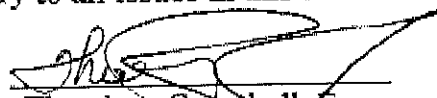
1. Plaintiffs repeat the allegations of the previous counts of the complaint and incorporate same herein by reference.

2. The conduct of the Defendants violates Plaintiff's rights to freedom of Speech and Association under Article I, Paragraph I of the New Jersey Constitution.

WHEREFORE, Plaintiff(s) demands judgment on this count against all of the Defendants for compensatory damages, punitive damages, attorney fees and costs.

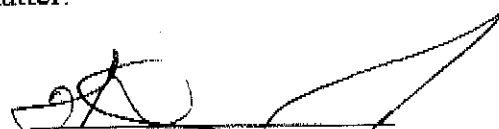
JURY DEMAND

Plaintiffs hereby demand trial by jury to all issues in this case.

  
Theodore Campbell, Esq.  
Date: 12-20-12

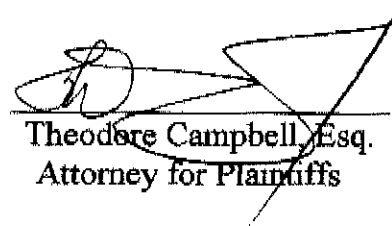
Designation of Trial Counsel

Pursuant to Rule 4:25-4, Theodore Campbell is hereby designated as trial counsel for Plaintiffs in the within matter.

  
Theodore Campbell, Esq.  
Date: 12-20-12

Rule 4:5-1 Certification

I hereby certify that the subject matter of the within complaint is not subject matter of any other lawsuit, arbitration proceeding or contemplated lawsuit or arbitration proceeding of which I am aware.



Theodore Campbell Esq.  
Attorney for Plaintiffs

Dated: 12 - 20, 2012